



Rule and rupture

State formation through the production of property and citizenship

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Cover of *Rule and Rupture*, Lund and Eilenberg. Photo: Michael Eilenberg

Rule and Rupture. State Formation Through the Production of Property and Citizenship

Introduction

Weak, fragile and failed. Mainstream scholarship on states and state formation in post-colonial societies has often used these adjectives to describe dysfunctional public administrations. Kaplan's seminal article (1994), 'The Coming Anarchy', which sketched out imminent lawlessness and state disintegration, was the forerunner of huge scholarly interest in state formation in poor countries. This first generation of the 'fragile states' literature, with its focus on how *actual* government structures fall short of an ideal Weberian index of a rational state, was, however, essentialist, ahistorical and teleological (for a concise overview see Hoffmann and Kirk, 2013). The present brief contributes to a novel understanding of public authority and state formation. It draws on a recent publication, *Rule and Rupture*, edited by Christian Lund and Michael Eilenberg (2016), and argues that public authority is not simply given but constituted through social contracts of property and citizenship. And this is an ongoing process.

The argument

Treating the 'state' as a finished product gets in the way of understanding it. The state is always in the making. Political authority is (re-)produced through its successful exercise; especially when exercised over important issues in relation to the social actors concerned. We suggest to investigate and specify contracts of recognition as the key dynamic of the constitution of public authority, and by extension, 'stateness'.

Property and citizenship represent two fundamental aspects of social life: what we have and who we are - *avoir* and *être* - and they are intimately related in their constitution. The core element of both rights is recognition. Moreover, when institutions recognize claims to property or citizenship, they themselves become recognized by the claimants of these rights. That is to say, rights and authority are mutually and simultaneously established. Claims to property and citizenship rights therefore invoke public authority and governing capacity in different institutions, be they statutory or not. And, conversely, those who can claim

to authorize people's claims to property and citizenship acquire and exercise state quality.

Put differently, struggles over property and citizenship are about the scope and constitution of political authority. Hence, investigating the social production of property and citizenship enables concrete understanding of the dynamics of authority, or state formation. The argument is that the ability to entitle and disenfranchise people with regard to property, to establish the conditions under which they hold that property - together with the ability to define who belongs and who does not, and to establish and uphold rank, privilege and social servitude in its many forms - is constitutive of state power.

Rights and political authority come about simultaneously in the dynamic of mutual recognition. Hence, the control exercised by institutions over resources and political subjectivities does not represent a pre-existing authority. It produces it. Conversely, effective rights do not represent pre-existing natural rights. They are political constructions and achievements and part of social contracts. To grasp these dialectics of rights and authority, we therefore need to dispense with simple assumptions that political authority exists prior to rights of property and citizenship. Rights *originate* in claims. Sometimes they are hard-fought and not all claims result in rights. Rights are not simply there, bestowed on people by some benevolent higher body; they are wrested from power.

Mutual recognition constitutes a contract, that links property and citizenship to political authority in society. In exchange for recognized valuable property rights in land and other entitlements, people recognize the political power of the institution by payment of tax in the form of money, tribute, labour, allegiance, or other resources. We use the word 'contract' loosely, because such contracts are not exactly voluntary, not always consensual, often contentious, and always under renegotiation. Thus, they do not necessarily imply continuous or stable recognition of the legitimacy of the contractual terms. As rights and public authority are co-produced, the erosion of one also means



School principal showing the commemorative plate of official inauguration of the school by the mayor; a school initially built by a farmers' movement on squatted land in illegality. West Java. Photo: Christian Lund

the dissipation of the other. Political ruptures may break the contract, and rights held under one regime may evaporate under the next.

Social contracts of governance and rights are not reserved for statutory institutions alone. The ability to govern can effectively reside in institutions other than formal government. Claims to rights prompt the exercise of authority, and, as claimants lodge claims with a broad range of institutions, authority and governance can consequently emerge in a broad field of institutions. Statutory institutions (legislative, judiciary and executive) may effectively govern, but it is more appropriate to treat this as an *empirical* question than a pre-established fact and more productive to identify actual authorities in social fields of property and citizenship. Thus, no single institution defines and enforces rights and exercises public authority as such.

BOX 1

Property is more than 'private property'. Property is often - quite perfunctorily - equated with absolute, unfettered ownership. However, ownership is always circumscribed by others' rights, which limit the exercise of an abstract total right to property. We therefore understand property as a legitimized claim to something of value sanctioned by some form of political authority. Struggles over property - very often in the form of land - can therefore be seen as struggles for the recognition of a wide variety of rights to access resources in various ways. These range from rights to reside and settle, through rights to use and extract, and extend to the right to transact those very rights.

Citizenship can be defined as meaningful membership of an organized political body. Citizenship goes beyond having a passport, just like having a passport does not necessarily ensure having meaningful citizenship rights. Struggles for citizenship are, generally, struggles for the recognition of the very right to have rights in society. Formal national citizenship is therefore just one of several forms of belonging. For most people, several political bodies are relevant for different aspects of life. Citizenship therefore makes up their political 'visibility' and denotes the political institution through which a person derives rights of membership to a community. In many places, land is a resource to which access is ensured not merely through the market or by membership of a national community: local citizenship, belonging, and status are often just as important.

Policy Implications

These research results have fundamental policy implications:

- First, in drafting development interventions it is important to take into consideration that state institutions may not be the only players within a field and, hence, neither the only potential source of problems nor partner in solving them. Consequently, if development interventions in a given field are under consideration, it is important to investigate what institutions are *actually* involved in the field already and to be open to the eventuality that they may not be statutory government institutions. In fields as diverse as security and education, infrastructure and land allocation, policies will have to take into account actors and institutions that already govern. Otherwise, failure of implementation is often inevitable.
- Second, to formulate realistic policies it is important to investigate the *existing* multiple relations of accountability and the processes of legitimation of claims to rights and authority. Most institutions are accountable up, down, and sideways in all but simple ways. Mapping out political, social, and legal dynamics and techniques, which establish relations of authority amongst different groups of actors through the production of property and of rights, will produce a realistic idea of the field. Again, legitimation and accountability may take forms that diverge significantly from 'good governance' templates.
- Finally, any intervention in the governance of a significant social field is *as political as it is technical*. Property, citizenship, security, infrastructure, land tenure, education etc., are not discrete governance challenges to fix and order, but existing relations of mutual recognition, competition, power and rights. They may be characterised by inefficiency, waste, and unfairness, and they may well deserve political intervention and improvement. However, development intervention is not simply a top-down mechanism co-authored with 'the state', but rather yet another political action of defining and recognizing rights and institutions in a field in which a broad set of actors already compete. Intervention therefore re-orders and challenges existing, sometimes entrenched, positions of entitlement and privilege. Consequently, interventions should be understood as political engagements in state formation. Agencies that intervene must therefore assess the political terrain that they may be inclined to change, because political intervention may impede parity of participation and exclude certain groups, and enable and empower different institutions to exercise authority. This raises a set of fundamental ethical questions: Who defines the 'problem' and to whom is the 'intervenor' accountable? The concerned population, the national government, or the government of the home country of the donor?

Property and its regulation are often conjured up from below by popular state practices. Research from countries as varied as Afghanistan, Bolivia, Cambodia, Colombia, Congo, Indonesia, Nepal, and Somalia, presented in Lund and Eilenberg (2016), shows how people act in the *anticipation* of government regulation long before any is formally adopted. Governance is conducted by government and many other private or non-statutory institutions, from neighbourhood associations to militias, from farmers' associations to chiefs and NGOs. Residents of informal urban settlements, f.ex., often organize their settlements in conformity with the formal technical norms (such as street width or the numbering of houses) in anticipation of recognition. By forming 'societies' or 'associations' with *présidents de secteurs* people may resist

and avert eviction and ensure access to public utilities; established presence may enable people to acquire identity cards (or proxies such as voting cards, or cards of membership of political or cultural associations); paying for utilities provides customers with receipts documenting and legitimizing residence; and people's possession of land allows for the gradual build-up of expectations of recognition. Likewise, by forming health committees, market guilds, or parent-teacher associations before there is a clinic, a marketplace or a school, citizens enter the orbit of certain governing institutions and conjure up the exercise of authority and recognition by anticipating the social contract with a public authority. In order to establish a contract of mutual recognition, the inhabitants often act and organize as they presuppose the municipality would expect proper citizens to act. But when statutory institutions are weak or absent, other institutions may perform the role of 'state'. Chiefs, churches, cooperatives, development projects, farmers' unions, hometown and youth associations, political parties, strong-men, militias, vigilantes, and fragments of ministries may effectively be invested with state quality, when they respond to claims.

The contributions to *Rule and Rupture* investigate how new forms of property and citizenship are produced; how old ones are challenged and sometimes reproduced; and, most significantly, how political authorities have emerged through ruptures by their ability to respond to claims and create, bestow, and protect rights of property and citizenship. The contributions are all the result of extensive fieldwork following different ruptures, i.e. particular moments that unsettle the course of history and social and political organization. Hence, simple labels — 'weak', 'fragile', 'failed' — are shown to be facile and inadequate.



Irregular settlement under the protection of a youth/gangster organisation, IPK, in Medan, North Sumatra. Photo: Christian Lund

Conclusion: State formation through the production of property and citizenship

Claims to rights invoke political authority and the governing capacity of institutions. The categorization of property and citizens is a way for institutions to claim authority and acquire and exercise state power. Different combinations of property and citizenship are constantly produced and reproduced in this dynamic, and new institutional alliances with the capacity to define and enforce rules of property and citizenship frequently emerge. Understanding these dynamics of state formation requires grounded, empirical research allowing us to go beyond state theories modelled after ahistorical ideal types.



The Sundanese Peasant Union (SPP) Training Centre, Garut. SPP has organised land occupations, re-distribution of occupied land, and provision of non-statutory public infrastructure in West Java. Photo: Christian Lund

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